IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.304 OF 2003.

PETITIONER Santosh Kumar Chauhan S/o. Somat Ram Chauhan Aged about 28 years, Occupation : Secretary, Gram Panchayat Patra Pali, Tahsil : Kharsiya District. Raigarh (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh through : Secretary, Village Panchayat, Rural Development & Social Welfare, D.K.S Bhawan Raipur.

2. The Director Village Panchayat, Rural Development & Social Welfare, Govt. of Chhattisgarh, Raipur.

3. Collector, Dist: Raigarh, C.G.

4. Dy. Director, Village Panchayat Rural Development & Social Welfare, Dist Raigarh, C.G.

5. The Chief Executive Officer, Janpat Panchayat, Kharsia, Distt: Raigarh.

6. Sarpanch, Gram Panchayat Patra Pali, Tahsil: Kharsia Distt. Raigarh, (C.G.)

P.R. No. 1-2-03
Presented by Shri A.N. Dhakte
dated 17.01.03

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 304/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15-9-2004

Shri A.N. Bhakta, counsel for the petitioner.

Shri Sanjay S. Agrawal, Govt. Advocate for the State/respondents No.1 to 4.

Shri Vaibhav Mishra, counsel for respondents No.5 and 6.

Heard learned counsel for the parties.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, questioning the legality, propriety and correctness of the impugned order i.e. termination order dated 5.12.2002 (Annexure P-1) issued by the Collector (respondent No.3), whereby the Collector removed the petitioner from the post of Panchayat Karmi.

The case of the petitioner is that he was appointed as the Secretary of the Gram Panchayat: Parthapali, Tehsil: Kharsia, District: Raigarh on 20.5.1996. He was removed from the said post under the impugned order dated 5.12.2002 passed by the Collector (respondent No.3) without following the procedure and without affording any opportunity to the petitioner.

It is an admitted position that the petitioner was removed from the post of Panchayat Secretary without following the procedure as envisaged in the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (hereinafter referred to as 'the Rules, 1999'). Sub-rule (1) of Rule 7 says that

> *"No order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (via) of rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided."*

Sub-rule (2) of Rule 7 envisages that

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(117)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

"When an order for formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, along with the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified a written statement of defence and also to state whether he desires to be heard in person."

Sub-Rules (3), (4), (5), (6), (7), (8), (9), (10) and (11) of Rule 7 further prescribe the procedure to be followed before imposing any major penalty specified in clause (iv) to (via).

It is also an admitted position that no enquiry was conducted against the petitioner before removing him from the post of Panchayat Karmi as per Rule 7 of the Rules, 1999. Therefore, on this ground, the impugned order dated 5.12.2002 passed by the Collector is liable to be quashed.

In the circumstances, the impugned order is quashed. However, it is made clear that the respondents are not precluded from conducting fresh enquiry on the misconduct of the petitioner.

With the above observations and direction, the petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Barve/Soma

[पीछे देखिये